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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/595,502   | 04/24/2006  | Andreas Giefer       | 72187               | 1616             |
| 23872 7590 02/11/2009<br>MCGLEW & TUTTLE, PC<br>P.O. BOX 9227<br>SCARBOROUGH STATION<br>SCARBOROUGH, NY 10510-9227 |             |                      |                     |                  |
| EXAMINER   |             |                      |                     |                  |
| JOHNSON, PHILLIP A   |             |                      |                     |                  |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/595,502

**Applicant(s)**

GIEFER ET AL.

**Examiner**

PHILLIP JOHNSON

**Art Unit**

3656

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date: 4/24/06
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following features must be shown or canceled from the claim(s). No new matter should be entered.

- a shifting gate is pushed over said selector lever.
- adapter has a screwable connection.
- adapter has a clippable connection.
- adapter has a plastic molding.
- the diameter of the selector lever and the adapter is smaller than a shift gap defined by side edges of a shift gate whereby the shift gate is passed over said selector lever and said adapter.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 – 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 1 recites the limitation "a housing/frame support structure" in line 3. It is unclear to the Examiner as to what structure the applicant intends to claim. Is the structure a housing or a frame? Or, does structure embody both a housing and frame?
5. Claim 1 recites the limitation "an adapter mounted at said selector lever" in line 9. it is not clear to the Examiner as to whether the adapter is to be mounted next to the lever or on the lever.
6. Claims 9 and 10 recite the limitation "for fastening at said selector lever" in line 3. it is not clear to the Examiner as to whether an element is fastened on the selector lever, or fastened next to the selector lever.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 – 3, 5 – 8 and 11 – 20, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Order et al. (USP 6,038,937) in view of Stencel (USP 6,439,074). Van Order et al. (Van Order) discloses (Fig. 1) all of the limitations of a similar device comprising:

- A housing structure (12).
- A frame (not shown, but inherent to support sector lever).
- A selector lever (22).
- A hand knob (26).
- A switch (24 or 28 in Fig. 2).
- An adapter mounted at said selector lever (30).
- Said adapter defining a connection between said selector lever and said hand knob.
- A shifting gate (*structure mounted on housing 12 that supports shift motion of selector lever 22*) [is pushed over said selector lever.]
- Said adaptor has a switch interface (31 and 33) for a connection cable (21 in Fig. 2).

- A line for transmitting electrical and/or optical signals (line carried by cable 21).
- Said adapter has at least one guide element (35) for positioning hand knob.
- Said adapter has a boring, into which said selector lever can be at least partially inserted.
- Said adapter has a plastic molding, [which is injection-molded on the selector lever via an injection molding process.]
- The diameter of the selector lever and the adapter is smaller than a shift gap defined by side edges of a shift gate [whereby the shift gate is passed over said selector lever and said adapter.]

Van Order fails to disclose said adapter having said switch integrated therewith.

Stencel teaches an adapter (tube 12) having a switch (18) integrated therewith (C4, L26 – 27: *an electric switch secured to the end of tube 12*) for purpose of providing a preassembly that protects switch wiring during final installation of the shift lever.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Van Order to include an adapter having a switch integrated therewith, as taught by Stencel, for the purpose providing a preassembly that protects switch wiring during final installation of the shift lever.

Re claim 4, the resulting combination of Van Order and Stencel and discloses wherein said adapter has at least one recess (48 in Fig. 8)

Re claim 12, the resulting combination of Van Order and Stencel discloses wherein said adapter has an actuator button part connected to said switch.

Re claim 13, the resulting combination of Van Order and Stencel disclose wherein said hand knob (34) has an opening for access to said actuator button (*Stencel*: Fig. 1).

Re claim 14, the resulting combination of Van Order and Stencel discloses wherein said actuator button part also comprises a switch display part (*Stencel*: Fig. 1 - top surface of button part)

Re claim 19, the resulting combination of Van Order and Stencel discloses wherein said adapter has a part with at least one of an actuator button part and a switch display part connected to said switch.

Re claim 20, the resulting combination of Van Order and Stencel discloses wherein said hand knob (34) has an opening for access to said at least one of an actuator button part and a switch display part (*Stencel*: Fig. 1 - top surface of button part) connected to said switch.

9. Claim 9, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Order in view of Stencel and in further view of Tucker (USP 7,032,074). The combination of Van Order and Stencel disclose all of the limitations set forth above, but fails to disclose wherein said adapter has a screwable connection for fastening at said selector lever.

Tucker teaches an adapter (See Fig. 2) having a screwable connection for the purpose of providing a serviceable shift device assembly for fastening at a selector lever.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combined device of Van Order and Stencel to include an adapter having a screwable connection for fastening at said selector lever, as taught by Tucker, for the purpose of providing a serviceable shift device assembly.

10. Claim 10, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Order in view of Stencel and in further view of Nedachi (USP 5,588,329). The combination of Van Order and Stencel disclose all of the limitations set forth above, but fails to disclose wherein said adapter has a clippable connection for fastening at said selector lever.

Nedachi teaches (Fig. 1) an adapter (2) having a clippable connection for fastening at selector lever (1) for the purpose of providing a quick and reliable connection that reduces assembly time.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combined device of Van Order and Stencel to include an adapter having a snappable connection for fastening at said selector lever, as taught by Nedachi, for the purpose of providing an quick and reliable connection that reduces assembly time.

**Examiner's Note:** the recitations bracketed by "[ ]" describe the process of making a product and, therefore, have not been given any patentable weight. The patentability of a product does not depend on its method of production (See MPEP 2113).



***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHILLIP JOHNSON whose telephone number is (571)270-5216. The examiner can normally be reached on MON - FRI, 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Phillip Johnson/  
Examiner, Art Unit 3656

/Richard WL Ridley/  
Supervisory Patent Examiner, Art Unit 3656